IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.7598 OF 2005
IN
CRIMINAL APPEAL NO.546 OF 2004

Kakasaheb Babasaheb Gujar ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr.Pratap Patil for Applicant
Mrs. P.H.Kanthari, A.P.P. for the State

CORAM: B.H.MARLAPALLE & ROSHAN DALVI, JJ.
DATED: 31ST JANUARY, 2006

P.C.

1. We have heard the learned Counsel for the Applicant who has been convicted and sentenced in Sessions Case No.14 of 2002 for an offence punishable under Sections 302 an 201 of Indian Penal Code as well as Sections 25 and 27 of Arms Act by the learned I Ad hoc Addl. Sessions Judge, Islampur. The said order of conviction and sentence dated 14th January 2004 is under challenge in Criminal Appeal No.546 of 2004 which has been admitted by this Court.

2. Hence, this application for bail. The prosecution had examined about 13 witnesses and as per the trial Court the recovery of the weapon has been proved at the instance of the applicant/accused and the dead body of deceased Prakash Dattatray Lohar was taken out from a well at the instance of the accused. The dead

body was kept in a barrel and thrown in the said well. No doubt the recovery of the dead body is after about 2 years from the date of incident i.e. March, 1999, the case of circumstantial evidence has been considered by the trial Court and as per the reasons set out in para numbers 20 to 29 of the impugned order the chain of circumstances has been held to be duly established and beyond the reasonable doubt. We therefore, do not find this to be a fit case to suspend the order of sentence and release the applicant/accused on bail under Section 389 of Criminal Procedure Code.

3. The application is therefore, rejected.

4. We have noted that the paper book is ready in Criminal Appeal No.546 of 2004, and therefore, we grant liberty to the Appellant to apply for final hearing of the Appeal.

(ROSHAN DALVI,J.) (B.H.MARLAPALLE, J.)